



U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street NW
Washington, DC 20005

December 4, 2020

VIA ECF

The Honorable Nicholas G. Garaufis
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *State of New York, et al. v. Trump, et al.*, No. 17-cv-5228 (NGG) (VMS)
Batalla Vidal, et al. v. Wolf, et al., No. 16-cv-4756 (NGG) (VMS)

Dear Judge Garaufis:

Defendants respectfully write “to update the court on the status of discussions,” Minute Order of Dec. 3, 2020, between the parties regarding the scope of relief to be ordered in light of the Court’s recent opinion in the above-captioned matters. In particular, due to the ongoing nature of the parties’ discussions, Plaintiffs’ filing from earlier today, *Batalla Vidal* ECF No. 352, does not include certain information that the Court might find relevant in considering Plaintiffs’ pending motion.

As demonstrated by the attached email thread, Ex. 1, yesterday evening, the parties had a lengthy meet-and-confer call regarding Plaintiffs’ requests for relief, and the possibility that the parties might be able to reach agreement on certain issues (or at least narrow the scope of any remaining disagreements). During that call, Plaintiffs expressed their intent to present a modified proposal to the Government regarding the issue of accrual of unlawful presence, and the Government expressed its intent to provide Plaintiffs with additional detail regarding available options to accomplish an extension of existing one-year grants of deferred action and employment authorization to two years. At 11:19 AM this morning, counsel for Plaintiffs informed counsel for the Government that “aside from the Federal Register and EAD conversion issues, plaintiffs do not see any further ways to narrow the disputes between us based on your positions.” At 11:32 AM this morning, counsel for the Government responded, and included additional information about the Government’s optimism that the parties might soon be able to reach an agreement on a mechanism by which, within 30 days, one-year grants of deferred action and employment authorization might be extended to two years.

At 11:32 AM, the *Batalla Vidal* Plaintiffs filed their reply. The *State of New York* Plaintiffs filed their reply at 11:41 AM.

At 1:10 PM, Plaintiffs’ counsel responded to Government counsel’s email, noting that Plaintiffs are “happy to continue discussing this,” and proposing a further conversation. Counsel for the Government will respond shortly to arrange for a further conversation between the parties. Counsel for the Government further intends to notify the Court immediately should the parties

reach any final agreements that are relevant to the Court's consideration of Plaintiffs' pending motion.

Because of the timing and the ongoing nature of the parties' communications, Plaintiffs' reply does not include this additional information regarding "the status of discussions" between the parties, so Defendants are including it here as a courtesy, and consistently with the Court's minute order of yesterday.

Defendants thank the Court for its consideration of this matter.

Dated: December 4, 2020

Respectfully submitted,

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